IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 294 of 2006

POONAM CHAND & ANR
V/S
AMRA DEVI & ORS

Mr. MOHD. ASLAM AND MR.MANISH SHISHODIA, for the appellant / petitioner

Date of Order : 12.12.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

The facts of the case are that the plaintiff Poonam Chand's father Karnidan was adopted by Munni Bai. The property is said to be of Munni Bai, Karnidan has expired on 23.2.1975 and Munni Bai has expired on 20.4.1981. Defendant No.1 Amra Devi is a natural born daughter of Munni Bai in whose favour Munni Bai has executed a Will for the entire property. The property in hands of Munni Bai was ancestral. Defendant No.3 claims to have purchased the property from Amra Devi, who sold it purporting to be absolute owner under the will.

In these facts, the learned courts below have found, that since Munni Bai died after commencement of Hindu Succession Act, and since the property was ancestral,

on the death of Munni Bai, Amra Devi could not get anything more than 1/4th share, inasmuch as, on the commencement of Hindu Succession Act, Munni Bai and Karnidan each became the owner to the extent of half to half share, and after death of Karnidan, his half share also devolved on his son plaintiff and his wife, while on death of Munni Bai, her share devolved on heirs of Karnidan and her daughter Amra Devi, thus, Amra Devi got 1/4th share. With these findings, the Will has been found to be valid only to the extent of 1/4th share, which devolved on Amra Devi, and thus, the suit has been decreed for 3/4th share of the property.

In my view, the finding do not suffer from any error. The appeal thus does not involve any substantial question of law. The same is, therefore, dismissed summarily.

(N P GUPTA),J.

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